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Author(s): Jean-Paul Brodeur
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HIGH POLICING AND LOW POLICING: REMARKS ABOUT THE POLICING OF POLITICAL ACTIVITIES*

JEAN-PAUL BRODEUR
Université de Montréal

Policing political activities is usually regarded as deviant police action. The deviance approach focuses on police abuse, which is deemed to be secretive and to confuse legitimate dissent with political delinquency, such as terrorism. I take issue with the deviance approach and attempt to replace it by distinguishing between high policing and low policing models of police action. Political policing is then seen as a core feature of high policing instead of merely being a suspicious peripheral aspect of the police apparatus. I also argue that mainly through technological change, western police forces are increasingly operating under the high policing model.

To write on the subject of policing political activities is from the outset difficult, because one can bog down in problems of semantics. The very meaning of the phrase "policing political activities" is fraught with ambiguities. The phrase can be narrowly interpreted to mean "keeping elected politicians honest"; more broadly, it can refer to police interventions in the struggles taking place inside society over the possession and exercise of state power. Compounding this difficulty, policing political activities is deemed to be not even a real topic in Canada and in the United States; the target of such policing—political deviance—has no official status outside the criminal law. Hence, many people claim that there are no political prisoners in North America. Others, such as Platt and Cooper (1974), take an opposite stand and argue that notions such as "deviance" or "social reaction" can only be understood as political processes. Any form of policing thus becomes political.

To escape this all or nothing dichotomy, I first examine the implicit definitions of political policing which are shared by Canadian and U.S. government inquiries into alleged police wrongdoing: aggressive operations performed under the blanket mandate of protecting "national security." Then I look at what I call the "deviance approach" to the policing of political activities and, noting its shortcomings, I distinguish between low and high policing and apply the latter to modern policing.

GOVERNMENT INVESTIGATIONS

Several Congressional committees scrutinized the U.S. intelligence community in the wake of the Watergate scandal of the early 1970s. The most thorough investigation was conducted by the Senate Select Committee on Intelligence Activities, chaired by Idaho Senator Frank Church. The committee's report (U.S. Congress: Senate, 1976) contained detailed accounts of domestic operations performed against political dissenters by the Federal Bureau of Investigation (FBI), under its infamous Counter Intelligence Program (COINTELPRO).

In Canada, investigations into the propriety of security service operations got off to a bad start. In 1966, the federal government appointed Judge Dalton C. Wells to investigate charges that the Royal Canadian Mounted Police (RCMP) had exerted undue pressure on the post office to fire Victor Herbert Spencer on the alleged grounds that he had spied for the Soviet Union. Spencer was found dead in his house a week before the inquiry was scheduled to begin. Later in 1966, the government appointed a royal commission to examine the protection of national security in Canada. It released an expurgated report (Canada, 1969).

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* This is a revised and slightly expanded version of a paper presented at the 34th annual meeting of the American Society of Criminology in Toronto, November 1982. Correspondence to: Ecole de Criminologie, Université de Montréal, C.P. 6128, Succursale A, Montréal, Québec H3C 3J7, Canada.

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The two major commissions of inquiry into political policing in Canada were established in 1977. They examined events surrounding the "October crisis" of 1970, during which the federal government imposed the equivalent of martial law in Québec and sent in the army in response to political kidnappings and unrest. The common object of these commissions was to investigate the RCMP security service and its Disruptive Tactics program, the Canadian counterpart of the FBI's COINTELPRO. The Québec government created its commission first, headed by lawyer Jean F. Keable (Quebec, 1981). A second commission was quickly appointed by the federal government. Chaired by Judge D.C. McDonald, its mandate paralleled closely the provincial inquiry (Canada, 1981a,b).

FOCUSSING ON POLICE DEVIANCE

Both the above-mentioned commissions of inquiry and the media's discussion of their findings use what I call a deviance approach to political policing. This approach, which is also used in academic literature on political policing,[1] focuses primarily on active police tactics of intervention and stresses those operations which appear to be illegal or at least reprehensible. A model case for this approach would be the FBI's attempts to blackmail Martin Luther King. (The FBI had intercepted what they claimed were compromising telephone conversations between the black civil rights leader and his alleged mistresses.)

The deviance approach distinguishes between active intervention tactics, which explicitly purport to disrupt and neutralize groups and individuals, and mere intelligence-gathering operations, or general surveillance. Though distinct, these two kinds of activities frequently overlap: disruption and neutralization are frequently achieved through the release of damaging information on groups and persons perceived as security threats. The deviance approach also distinguishes between lawful activities, such as analyzing the contents of extremist publications, and illegal operations such as criminal libel, blackmail, and theft of property. But here again, though the distinction is easy to formulate in theory, it is fraught with difficulty in practice, as recent court decisions have shown in Québec. After the Québec government released the Keable report in 1981, 17 RCMP officers were indicted for crimes ranging from arson and theft of dynamite to stealing the membership list of the Parti Québecois, which, at the time of the theft, was the official opposition party in the Québec National Assembly (Parliament). So far not one conviction has been obtained before the courts.

The main flaw of this deviance approach is that it views the policing of political activities as a suspicious increment to criminal policing. I argue that political policing is not a belated and anomalous accretion to the police system. Rather, it forms the pervasive core of a whole model of policing, which I call "high policing." North American police agencies, traditionally thought to be engaged in "low policing," are evolving toward the "high policing" model, in which political policing permeates the whole structure of police action.

However, before taking issue with the deviance approach on its main flaw, I first criticize two of its less theoretical tenets. My criticism arises from a personal involvement for more than two years with the Keable inquiry into police wrongdoing in Québec. From 1979 to 1981 I was the commission's official spokesman and main consultant for its report. During these two years, I experienced growing reservations about two features of the deviance approach, which have dire

1. In the United States, the deviance approach is exemplified in academic literature by Blackstock (1976), Donner (1980), Halperin *et al.*, (1979), Morgan (1980), Rowan (1978), Theoharis (1978), and Wise (1979). It is also illustrated by most of the contributors to Berman and Halperin (1975), Borosage and Marks (1976), Fain (1977), Frazier (1978), and *Columbia Human Rights Law Review* (1973). For Canada, see Brown and Brown (1978), Dion (1979), Mann and Lee (1979), Sawatsky (1980), Shearing (1981), and Fournier *et al.*, (1978). This survey is by no means exhaustive and I have quoted only recent literature.

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consequences on the practical level. These are: (1) its assumptions about the secrecy of political activities; and (2) what seems to me to be a futile attempt to distinguish between lawful dissent and political delinquency, such as terrorism. Because my personal exposure to the deviance approach has been in Québec, I use mainly Canadian events to illustrate my argument. However, I believe the features of the deviance approach which I criticize are common in the United States as well.

CONVENIENT SECRECY

I argue two points about the secrecy which surrounds the policing of political activities:

1) The secrecy of deviant political policing is, to a significant extent, the product of a deliberate illusion.

Once the notion of secrecy is adequately qualified, it is found to have a much more restricted application to the policing of political activities than we are led to believe. Indeed, the Royal Commission on Security in Canada stated:

> A security service will inevitably be involved in actions that may contravene the spirit if not the letter of the law, and with clandestine and other activities which may sometimes seem to infringe on individual's rights (Canada, 1969:21).

Anyone familiar with public government documents produced by or about security agencies is aware that they use "laundered language."[2] The above quotation from the royal commission's report comes as close as any document revised for publication to stating in plain English that the RCMP security service took liberties with the law. Indeed, the royal commission recommended that the security service be separated from the RCMP because the former's activities were bound to damage the latter's reputation for abiding by the law. Obviously, this is not the kind of proposal that a commission makes without standing on firm ground. However, not having a specific mandate to inquire into RCMP wrongdoing and, furthermore, not being under pressure from public opinion, the royal commission did not disclose a particular incident which the media might have dramatized, thus raising a public outcry for reforms and sanctions. Its report was quickly forgotten and failed to produce any perceptible reform.

In 1977, following public allegations of wrongdoing by the RCMP security service and by other security squads operating in Québec, the Keable and the McDonald commissions were created. (These allegations were made by an ex-member of the RCMP security service, who was then on trial for having placed a bomb on the back doorstep of a prominent Montreal businessman.) Part of their task was to see if there were any grounds for prosecuting police officers who were alleged to have violated the law. Predictably, what the commissions produced were detailed illustrations of the general statement that had been made, to no avail, by the royal commission 12 years before. Moreover, the McDonald report made exactly the same recommendations as the royal commission: that the security service be withdrawn from the RCMP and be made into a separate civilian agency.[3]

Thus, the overwhelming difficulty of gathering legal evidence against individual policemen

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2. For detailed descriptions of police laundering of language, see Mann and Lee (1979) and Brodeur (1981). Mann and Lee have coined the expression "laundered language." Perhaps the most famous example of such laundering is the Central Intelligence Agency's replacement of "assassination" by "termination with extreme prejudice."

3. There is some irony in the fact that, though identical in content, the recommendations of the Mackenzie royal commission and the McDonald commission stem from opposite grounds. Commissioner Mackenzie wanted the security service out of the RCMP because he believed that the former's lawlessness was incompatible with the untarnished image that had to be projected by the latter. Volume 2 of the McDonald report (Canada, 1981a: part 6, chapter 3) argues that the weight of bad habits inside the RCMP would preclude any significant reforming of the security service if it was left under the RCMP's control.

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who may have undertaken or authorized illegal operations should not be confused with plain ignorance about the nature and ways of political policing as such. As any police officer can bear witness to, knowledge and legal proof are very different things; the first notion concerns the substance of the facts, whereas the second is largely a question of formal procedure. The Keable and the McDonald reports confirmed in 1981 what had been clearly said in 1969. To confuse a lack of compelling evidence against persons with a lack of reliable information about political policing only strengthens the tendency to repress knowledge which threatens cherished illusions about institutions, namely that they abide by the law. It also provides governments with a welcome alibi for idleness in curbing abuses.

In other words, I strongly object to a line of reasoning that would unfold thus: (1) If you can't make a legal case, then you don't have a point. (2) But you can't get any proof, because operations are cloaked in secrecy. (3) Hence, little can be done against the infringement of civil rights by political policing. This line of reasoning only protects police interests and precludes significant reform.

2) The secretive aspects of political policing, whether real or fabricated, stem from a partnership among the police, politicians, the courts, and, ironically, the victims of aggressive political policing themselves. The press is an important investor in this secrecy corporation.

Members of government have neither the interest nor the inclinations to seek confirmation of what they suspect, or have been "confidentially" told. In theory, they too could be indicted for actions that took place with their knowledge. The more knowledgeable they are about illegal activity, the more vulnerable and accountable they might be. Thus they insulate themselves from detailed knowledge of police wrongdoing. The third report of the McDonald commission documents in striking detail the Canadian government's reluctance to follow explicit leads to RCMP lawlessness (Canada, 1981b).

The attitude of the courts provides no encouragement to politicans. The best-kept secret about the most abusive forms of political policing is whether Canadian judges believe it to be illegal. One cannot help but be struck by the court's resistance to pronounce clearly on this matter. Up to March 1983, not one of the six prosecutions undertaken after extended investigation of police wrongdoing in Québec during the early 1970s succeeded in eliciting a substantial ruling from the courts; procedural irregularities were cited in each case.

Few political organizations which have been the victims of police disruption are willing to take official action which might disclose the extent to which they have been infiltrated by the police: such revelations are liable to drastically reduce their credibility in the eyes of other movements and their membership.[4] (One exception is the U.S. Socialist Workers Party, which has launched a civil suit against the Attorney General of the United States.) The police are well aware of this reluctance and deliberately spread rumors of infiltration to destabilize political groups.

The attitude of investigative journalism toward the exposure of deviant political policing is somewhat akin to the behaviour of the tabloids toward sex scandals. The scandal sheets try to hide their pornographic character by pretending to denounce what they prey upon, thus partaking in what they affect to repudiate. Similarly, investigative journalism presents as sensational feats of intelligence the numerous cases of police delinquency which it succeeds in unearthing, thereby suggesting that these wrongdoings are occurring behind a leaden veil of secrecy which only the "free press" can lift. The growing banality of these so-called "revelations" bears witness to the fact that political policing has become a reservoir for fishing out deviance, in order to increase plummeting circulation rates.

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4. It was revealed during the hearings of the commission of inquiry of which I was a staff member that a *bona fide* member of one of the main Québec leftist organizations, *En lutte*, was in fact a police informer. In the months following the publication of the commission's report, this organization dissolved itself.

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Public disclosure of police deviance has no intrinsic value in itself, except perhaps for securing some political advantage or for selling more newspapers. If it goes no further than providing a lively stage for a play on police immunity or on government impotence, it can even reinforce the willingness of police agencies to infringe upon civil liberties by demoralizing the potential victims of these violations.

REPRESSION OF DISSENT AS A REQUIREMENT OF POLICING

Critics of political policing, whether writing in the press, in official reports or in academic literature, repeatedly stress its failure to distinguish between lawful dissent, on the one hand, and political violence and its advocacy, on the other hand. Police deviance is then defined as illegitimate and wrongful intervention into law-abiding radical (or alternative) politics.

I do not want to dispute the accuracy of this criticism. The list of persons arrested during the October Crisis of 1970, as well as the types of movements which were the target of police disruption in the United States and Canada during the early 1970s, show that the police were *not*, to say the least, sensitive to the distinction between dissent and deviance. Such insensitivity is not, however, a specific feature of a particular type of policing, namely policing political activities. In my opinion, it is a general feature of policing itself.

One striking aspect of research on the police is its demystifying character. After having undermined certain widely held beliefs about patrol work and, more generally, about the amount of activity that a police force devotes to fighting crime, research has recently focussed on detective work, undertaken both by general investigation teams and by more specialized units, such as narcotics squads. Greenwood *et al.* (1975), Sanders (1977), Manning (1980), and Ericson (1981) have emphasized the inability of detectives to identify offenders not already identified by victims or other informants. Detective work is aptly characterized, in the words of Ericson (1981:136), as "the processing of readily available suspects." I believe this statement also applies to the policing of political activities.

Counter-intelligence and security work is to a large extent prone to the same difficulties as criminal detective work, and is performed mainly by persons with a background in criminal detection. The problem of identifying political offenders is even more complicated because the intended victim of political deviance is the state itself. Since the identification of offenders depends greatly upon information provided by victims or informants, the following paradox emerges: the state, as law-enforcer, has to rely on itself, as a victim or informant, to identify its enemies. There are three practical ways to break out of this circle. The first is for the police to transform into criminal enemies those who publicly criticize the state. Such persons are precisely those we refer to as "dissenters": they believe they can lawfully advocate radical change through the spoken word and achieve it through public persuasion. However, by so doing they identify themselves as suspects for police processing. The second solution is to rely on intelligence provided by paid informers.[5] Professional informers, however, have an interest in selling, as prized offenders, members of the groups that they infiltrate and literally prey upon. A third strategy is to act upon the belief that dissenters and violent political delinquents form a tightly knit web, the latter occupying its center; one then tries to use as unwilling informants those dissenters thought to operate on the outer fringe of the web. In all three cases the law-abiding dissenter becomes a law-enforcement target through what I believe to be a permanent operational constraint of policing: producing suspects.

The tendency to confuse lawful dissent with illegal behavior is, in my opinion, an insuperable

5. An informer provides the police with information on a regular basis, in return for gratifications which may widely vary. An informant is anyone who gives information to the police. An informant might be, for instance, an indignant witness to a crime.

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feature of policing political activities; no amount of legal safeguards can do away with this tendency. Striving to prevent political policing from hampering the right to dissent is as hopeless as trying to keep a stake from casting its shadow.

HIGH POLICING AND LOW POLICING

So far, I have deliberately used the expressions *policing political activities* and *political policing* as loose synonyms. This way of speaking might create a wrong impression: that policing can be said to be political only if it interferes with the political activities of citizens, whether lawful or unlawful. This seems to me to be too narrow a perspective, for it implies that if all counter-subversive and counter-intelligence divisions presently existing in police forces were suppressed, we would be left with non-political law-enforcement. I believe that political policing not only refers to a certain number of programs and operations undertaken by specialized units inside a police force. Rather, it constitutes a general paradigm for policing or, in other words, a definite pattern of relations between a set of goals and the means to achieve them. I now briefly describe some of the main features of this paradigm and suggest that uncontrolled changes presently taking place in information technology are increasingly leading police forces to operate under this model.

It is unfortunate that most books on the police trace its modern origins[6] to Sir Robert Peel's preventive police.[7] This is but one of the paradigms for policing, which I call, in accordance with historical terminology, "low policing." Following Bordua (1968), Chapman (1970), and Tobias (1972), Manning (1977:106) equates low policing with criminal policing. I elaborate further on the difference between high and low policing, tentatively describing the latter as forceful reaction to *conspicuous* signs of disorder, whether or not of a criminal nature. A few examples from the history of policing make the difference between high and low policing more perceptible.

It is easy to overlook the first police organization comparable to modern forces, the one created in France in 1667, under Louis XIV. Its explicit aim was to strengthen royal authority in all fields of activity. According to Clément (1978) and Chassaigne (1975), this force rapidly grew into an apparatus devoted to high policing (*haute police*), under the Lieutenancy of René d'Argenson, who headed the French police between 1697 and 1715. A concrete insight into the nature of high policing is provided by Fontenelle's eulogy for d'Argenson, read before the French *Académie des Sciences*. One of the luminaries of the reign of Louis XIV, Fontenelle was then secretary of the pretigious *Académie*. His eulogy describes in striking fashion the duties of the police, as they came to be perceived:

> To perpetually feed in a city like Paris an immense consumption,[8] of which some of the sources can be dried up by an infinite number of accidents; to repress the tyranny of the merchants against the public, while at the same time stirring up their trade; to draw from an infinite crowd all of those who can so easily hide within it their pernicious industry; either to purge society of them or to tolerate their being insofar as they can be useful in performing tasks which nobody would assume or carry out as well; to hold necessary abuses within the precise bounds of necessity which they are always prone to violate; to reduce these abuses to such obscurity as they must be condemned, and not even to retrieve them from it by too glaring

6. The words "modern origins" need to be stressed here. Policing functions have been performed since early antiquity. According to Jacob (1979), public slaves owned by the state were used as a police force in ancient Greece.

7. The qualification "preventive" does not purport here to contrast one distinctive type of policing with another. For the English reformers of the 19th century, policing was seen in itself as an alternative to sentencing by the judiciary, the harshness of punishment being notoriously inefficient in England. Thus *any* kind of policing (even of the most repressive kind) would still have been called preventive. Put another way, Peel's preventive police was essentially thought of as a *deterrent* police.

8. One of the original tasks of the French police was to ensure that Paris was adequately provided with food supplies, in order to prevent riots.

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> a punishment; to ignore what it is better to ignore than to punish, and to punish only rarely and usefully; to penetrate inside families through underground passages and to keep the secrets that they never imparted for as long as it is unnecessary to use them; to be everywhere without being seen; finally, to move or to check at will a vast and tempestuous multitude and to be the ever active and nearly unknown soul of this great body; these are the duties of the police magistrate. (Quoted in Clément, 1978:334; translated here by the author).

This description stands in sharp contrast to Peel's principles of policing (Reith, 1975). High policing is actually the paradigm for political policing: it reaches out for potential threats in a systematic attempt to preserve the distribution of power in a given society.

High policing has four basic features, the first of which is the most important:

1) High policing is first of all absorbent policing.[9] This feature itself has two traits: (1) It aims to control by storing intelligence. (2) This intelligence gathering is all-encompassing: it extends to any domain that may further the implementation of state policies.[10] This description is as valid today as it was at the beginning of French high policing. In an interview that the director of *Renseignements Généraux* (General Intelligence, a division of the French *Police Judiciaire*) granted me in December 1982, he described his service in 1982 as performing "police journalism on behalf of the state." In using the word "journalism" he meant that no field of activity in France was alien to police reporting. However, gathering intelligence is accomplished not only through the accumulation of data; it is also greatly enhanced by exhaustively charting the physical and social space into definite coordinates in order to increase the scope and precision of surveillance. Thus, in his 1749 memoir on the reform of the French police, Guillaute, (1974), an officer of the *Maréchaussée* (provincial police), not only outlined the first automated system of police records but also made elaborate proposals for numbering houses, apartments, and stairways; for identifying all vehicles; and for listing occupations, travels, hotel occupancy, and so forth. Intelligence gathering in this paradigm was not restricted to physical behaviour (actual deeds). Words, whether spoken aloud or whispered in private, and whether written for publication or in a personal correspondence, were a primary focus of surveillance; mail opening was melodramatically said to be performed in a "*cabinet noir*"—a black cabinet.

2) High policing is not uniquely bound to enforce the law and regulations as they are made by an independent legislator.[11] The head of the French police was originally a ruling magistrate; he had wide powers of regulation and was often directly commissioned by the executive branch of the government to perform special duties. The extent of his power can be gauged from the fact that he could, in certain cases, officially pronounce the death penalty. The French police apparatus had a double structure: its higher personnel was divided between *commissaires* (commissioners), who had judicial powers and *inspecteurs* (inspectors), who had executive powers. Together, the head of the French police and his personnel of commissioners and inspectors possessed the three forms of power (legislative, judicial, and executive) that are traditionally separated.

3) Protecting the community from law violators is not an end in itself for high policing; crime control may also serve as a tool to generate information which can be used to maximize state

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9. Mathiesen (1980:277) uses the expression "the absorbent State" in a sense akin to my own meaning.
10. The letters of Joseph Fouché, Napoleon's minister of police, are particularly illuminating on the nature of high policing. "The police," wrote Fouché to Wellington in 1816, "is a political magistracy, which, apart from its special functions, should co-operate by methods, irregular perhaps, but just, legitimate and benevolent, in augmenting the *effectiveness of every measure of government*." (Quoted in Radzinowicz, 1956:555, emphasis added).
11. Again, Fouché shows that there was continuity in French high policing before and after the Revolution of 1789. In a letter to Napoleon, he wrote, "the police, as I conceive it, should be established in order to forestall and prevent offences and to check and arrest *such as have not been foreseen by the law*" (Quoted in Radzinowicz, 1956:566, emphasis added).

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coercion of any group or individual perceived as threatening the established order. Crime is thus conceived as something which lends itself to manifold exploitation. The use of common criminals to crush political deviance is a regular tactic of high policing. This type of policing is, therefore, more deeply involved in crime management than in crime repression. This third feature of high policing has been aptly formulated by Hans von Henting in his book on Fouché, one of the main originators of high policing: "A political police is not so much an instrument for the protection of society as a form of political activity through the medium of the police" (Quoted in Radzinowicz, 1956:572).

4) High policing not only makes extensive use of undercover agents and paid informers, but it also acknowledges its willingness to do so. It strives in this way both to maintain a low operational visibility and to amplify the fear of denunciation. Madelin (1930) and Williams (1979) have shown that, between 1700 and 1815, the dread instilled in the French population over its alleged penetration by police informers was in no way proportionate to their actual number. But whatever the real number of informers actually used by a high police apparatus, this apparatus always pursues a double strategy of actual infiltration (which can become quite extensive) and of maximization of insecurity among the target groups by deliberately spreading rumors about the pervasive character of its deployment.

THE COMING OF AGE OF HIGH POLICING

Limitations of space prevent me from offering detailed arguments here to support my belief that North American police forces are already operating under the high policing paradigm—or that they will increasingly be doing so, the long arm of the law being, so to speak, curtailed in favor of the wide eyes of the police. I suggest, however, that this hypothesis deserves careful consideration. In linking the features of high policing to present aspects of policing, I first briefly deal with its last three features and then concentrate on the most important feature, absorbent policing.

The police as legislator is nowhere more active than in spelling out the details of its alleged mandate to monitor domestic political activities. Earlier quotes from reports on the RCMP security service show that its mandate is not given by Canadian statutes. Instead, the commissions of inquiry showed that the mandate was pieced together from a motley array of legal, executive, and police internal policy documents (Brodeur: 1981). Indeed, when questioned about its mandate by the Keable commission in 1978, the RCMP security service commissioned its lawyers to introduce as legal exhibits a few pages of the long-forgotten 1969 royal commission report. With regard to the United States, Donner (1980) provides a compelling demonstration that the FBI's domestic intelligence activities were performed under a slack interpretation of a pseudo-directive by President Franklin D. Roosevelt.

Exploiting crime for political purposes is a particularly blatant police practice in the law enforcement field of "morality" (prostitution, gambling, and drug and alcohol control). Brothels have traditionally been protected for intelligence gathering and blackmail. A more vivid example of crime management is provided by Epstein (1977), who makes a convincing case that the Nixon administration planned to use the Drug Enforcement Agency (DEA) as a political tool and was succeeding in its plan when the Watergate scandal broke. An extreme form of crime exploitation is the use of *agents provocateurs* to "stimulate" criminal behavior, a practice which has been a focus of concern both in the United States (Marx, 1974, 1980, 1981) and in Canada.

Police recourse to regularly paid informants (informers) integrates and is based on all features of high policing. The increasing reliance of the police on low-visibility informers is well documented; a wealth of material has recently been released on this issue, both in the United States

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and Canada.[12] Most noteworthy on this matter is the report of Judge Charles D. Breitel (1980) in a civil suit brought by the U.S. Socialist Workers Party against the U.S. Attorney General. Not only does the report show that this party was literally ridden with FBI informers, but it also documents the fact that, to all practical purposes, the FBI's *Manual of Instructions* filled a legal vacuum regarding questions related to the infiltration and control of informers. (This subject is closer to a legal "black hole" than to the proverbial "grey area" within the law.) Wrote Breitel:

> From approximately 1961 to 1971, the FBI maintained a counterintelligence program (Cointelpro) against the SWP [Socialist Workers Party] and YSA [Young Socialist Alliance] entitled the "SWP Disruption Program," which consisted in part of the dissemination of information by the FBI designed to impair the ability of the SWP and YSA to function. . . . The tactics utilized in these programs included disclosing to the press the criminal records of SWP candidates, and sending anonymous letters to SWP members, supporters, spouses, and employers. Informant [informer] involvement in the counterintelligence programs consisted in part of providing the FBI with information it utilized in anonymous letters and of reporting to the FBI on the effects of counterintelligence programs. The FBI's investigation of the SWP and YSA was conducted pursuant to the instructions contained in Section 87 of the FBI Manual of Instructions ("the Manual"). . . . From at least 1960 until 1976, Section 87 of the Manual instructed FBI field offices to develop informants on all levels of organizations, such as SWP and YSA, which were the subjects of domestic security investigations. . . . Approximately 55 FBI informants held offices or committee positions in the SWP and YSA between 1960 and 1976. (Breitel, 1980:4–5).

Finally, it is an avowed fact that informers are recruited by the police among persons facing criminal charges, which are provisionally dropped in return for information. All three features of high policing under discussion—supplementing the law, exploiting crime, and recruiting informers—are thus involved in the question of infiltration.[13]

Though substantial, the connections I have made so far do not point decisively to a drift towards high policing. However, all western countries now have computerized criminal information centers, and this seems to me to be the hub of the issue.

Bunyan (1976) predicted that by 1979 there would be over 36 million names and entries on file in the British Police National Computer Unit—most of them concerning motor vehicles. In the United States in 1982, the criminal records of over 36 million people were stored in computers (Slade and Biddle, 1982). The FBI manages the National Crime Information Center (NCIC). The experimental System for Electronic Analysis and Retrieval of Criminal Histories (Project SEARCH) is a permanent appendix of the NCIC (NCIC-Computerized Criminal Histories, or NCIC-CCH) and stores 1.3 million criminal records. One could multiply the acronyms: for instance, the U.S. National Security Agency (NSA) had its MINARET watch-list of protestors during the Vietnam War. In Canada, the RCMP operates the Canadian Police Information Center (CPIC) and several provinces have their own computerized criminal information center, such as Québec's *Bureau de renseignements criminels du Québec* (BRCQ).

The establishment of such information centers is legitimized by the alleged needs of crime con-

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12. Donner (1980:137) claims that some 37,000 paid informers were used by the FBI between 1940 and 1978. This is given as a "conservative" figure. The Keable report presents detailed descriptions of the police use of informers (Québec, 1981.)

13. Maximizing insecurity by spreading rumors is also a prominent feature of the use of informers by the police. The Keable report cites an RCMP document on anti-subversive tactics which reads: "We prevented the much-mooted FLQ [*Front de libération du Québec*] renaissance of 1971 by a simple reversal of our earlier policies—a reversal inspired by the theories of Dr. Gustav Morf and others about the group dynamics of secret associations. Instead of hoarding our intelligence, we gave it away to individuals identified as particularly susceptible, by our psychologist, among members of emerging cells. The cells in question, exaggerating the extent of our knowledge of them, dispersed as if by magic" (Quoted in Québec, 1981:250.)

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trol. The point that I wish to stress is that the uncontrolled profligacy in storing crime and crime-related information is liable to transform the nature of policing. By its sheer weight, criminal intelligence gathering, whose scope is very loosely, if at all, regulated by law, can progressively give birth to a general surveillance—the equivalent of high or political policing.

Some authors play down these concerns. Colton (1978) suggests that the efficiency of computers in policing has been overrated. Similarly, the September 1982 issue of *Police Magazine* is titled "Police and the computer: Still working out the glitches."[14] Others defend the emerging system. I will respond to four main lines of defense.

1) Morgan (1980:164) says there is agreement among the police that information should not be collected randomly on political dissenters and that all intelligence gathering must be linked to preventing a specific crime. Unfortunately, making files out of unbridled criminal suspicions is a free police exercise. But more generally, I would say that crime prevention is such an open category that it allows almost any kind of information to be stored. RCMP Commissioner Robert Simmonds told the McDonald commission that *any* information stored in government data banks might prove crucial in an emergency: for example, police might seek the medical record of a highjacker for clues to his or her psychological profile (Vastel, 1981). In a newspaper interview, Simmonds requested that the police be legally granted freedom of access to all federal data banks, adding that the police *would manage anyhow to get the information it wanted:* legalizing the process would only make it less costly and more effective (Préfontaine, 1980). Our problem thus concerns much more than the police's own computers.

2) Like other contributors to Hoffman (1980), Westin (1980:173) claims that the use of computers has "not yet" led the police "to collect more intrusive or sensitive personal information" than before (Colton's observations, like the *Police Magazine* issue, boil down to a "not yet" type of impatience). However, as the U.S. Privacy Protection Study Commission (1977) emphasized, computers are not mere data repositories; their real potential lies in *interconnecting* already available data. Intrusiveness is more than the depth of penetration into personal intimacy; it is also measured by the breadth of information processed. Computers do not, of course, intrude by themselves; however, they can transform into a system of pseudo-knowledge intrusive gossip by police informers and input mistakes by unskilled clerks.[15]

3) Daunt (1980:191) an FBI officer, argues that police computers store only what is public record (the "rap sheet"). Indeed, in *Paul v. Davis* (1976) the U.S. Supreme Court refused to extend federal privacy protection to the dissemination of criminal justice information (on the dubious grounds that an arrest by the police is hardly a private affair). Does this imply that someone arrested on a false charge will forever have this fact on their public record and possibly be trapped in a "data-prison of denied credit and foreclosed job opportunities?" (Katzenbach and Tomc, 1973:65). Moreover, the objection assumes that what is computerized is only a matter of public record. This may be true for certain NCIC computer programs, but it is less true of local police force data banks which are reputed to be more prolific, listing *suspects*[16] (Kansas City's ALERT: Automated Law Enforcement Response Team) and alleged narcotic addicts, (New York State's Identification and Intelligence System). Many such local systems exist both in the United States and Canada. Whether stored in computers or not, medical records are not a matter of public record, yet the police are requesting legal access to them. The Ontario Commission of

14. An article by Rosen (1982) in this issue of *Police Magazine* is entitled "Police and the computer: The revolution that never happened."

15. Slade and Biddle (1982) mention that almost half a sample of FBI computerized criminal records were found by the Office of Technology Assessment to be incomplete or inaccurate.

16. According to Funk and Werkentin (1978), the German police collects data on persons who are "close to being suspects" (*verdachtnäh*).

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Inquiry into the Confidentiality of Health Information (1980) has shown that the police were given wide access to medical files by informer-doctors, who were thus violating their medical oath.

4) One might invoke legislation such as the U.S. Privacy Act of 1974 to argue that legal protection is provided against invasions of privacy. However, the U.S. Privacy Protection Study Commission (1977:53) has stressed that "the Act's failure to attend to the impact of technological advances on individual liberties and personal privacy" has significantly weakened its guarantees. The same criticism holds against Canadian legislation on the protection of privacy. Bill C 43, which consists in part of a privacy act, was passed by the Canadian Parliament in June 1982. It is more protective of state prerogatives than of the citizens' right to privacy.

Thus, it is a genuine concern that instead of protecting and serving the community, the police may bring about a state monopoly over a computerized ghost citizenry readily available for manipulation and control. Doubtless, this process is no more deliberate than was the transformation for all practical purposes, of drivers' licences into identity cards. I must agree with Pyle (1972:103) that "once born, political data banks appear to grow through the normal processes of bureaucratic accretion." Seemingly innocuous things sometimes beget unforeseen and unwanted results. High policing is, in itself, less an evil than a threat. After all, France has harbored it for more than three centuries and is still a living democracy. High policing is none the less bound to cause a significant (if not grievous) erosion of freedom if it is left unchecked.

CONCLUSION AND IMPLICATIONS

Government inquiries and public controversies over the policing of political activities have adopted a deviance approach, which assumes that unwarranted police activities consist only of aggressive, illegal intrusions of individual policemen or programs into the lives of private citizens. It adopts a "low policing" view of the problem. In so doing, it unknowingly rejects another, more appropriate model of police work in general, and political policing in particular. This alternate view stresses the similarities and overlap between political policing and police work in general. Contemporary developments, especially in computer technology, make the high police model much more compelling. These two models suggest different approaches to the problem of controlling the police and to containing unacceptable intrusions of the police into political life.

While unwilling to surrender to what might derisively be called the "big computer scare," I do wish to underline that the traditional legal distinction between private and public is becoming socially obsolete. It should be replaced by a three-fold distinction among (1) what is public; (2)what is recorded for the benefit of some agency or some organization; and (3) what is still private. The scope of what is on file in that uncertain middle ground between the public and the private seems to be expanding over the years, and the intermediate zone is spreading over both sides of its boundaries. I believe it should be a matter of concern not to let that middle ground become a colony of the police.

How can this be achieved? The standard answer is that it should be done by establishing controls on policing, thus creating some form of police accountability. Quite so. However, controlling is an exercise very much akin to policing. Just as there are two models of policing, might there not also be two paradigms for controlling the police, namely high and low control? I believe that the misguided reliance of the deviance approach on the prosecution of individual violations of law by police officers exemplifies a self-defeating attempt to check the abuses of high policing through the inadequate means of low control. Consequently, what should be done is to inquire whether there are any features of high policing which could be useful in articulating a strategy of high control. There are at least two such features. First, high policing is not a piecemeal endeavour; it is relentless and implies systematic *continuity*. Second, it focusses on the pro-

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cessing of information, from which future events can be foreseen and, if need be, averted (through subsequent policy-making).

Thus, high control needs, first, a *permanent* institutional base from which it can be independently exercised. An example can be found in the French National Commission on Computer Technology and Freedoms, appointed by law in 1978 with an explicit mandate to see that no application of computer technology infringes on civil liberties. Second, the wealth of information on high policing must be transformed into a cogent body of knowledge from which we can act decisively to preclude what is intolerable in an open society.

But again, what will prompt us to act in such a way? Perhaps nothing short of an ideological conversion that will make us feel how vulnerable we have become. It is dismaying to find how our notion of the human mind is influenced by psychology which, with few exceptions, conceives it as some sort of inner data bank. This sunken computeroid is deemed so private that only a psychologist can retrieve some of its most emotional secrets. This ideology of inwardness appears to me completely outdated by changes that are now wantonly occurring in society. As human subjects, we are becoming objectified as a set of external traces. Hence, the time has passed to salvage what little has remained inside us; the task now is to protect what we are daily emptied of.

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